

ADAMS, J.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:05CR0537
)	
Plaintiff,)	
)	JUDGE JOHN R. ADAMS
v.)	
)	<u>ORDER</u>
DWAYNE NABORS, et al.,)	
)	
Defendants.)	

This action is before the Court upon the following motion filed in Case No.1:05CR0537 and the related civil case:

<u>Defendant</u>	<u>Motion</u>	<u>Civil Case No.</u>
Albert Lee, Jr. ¹	Motion to Vacate Under 28 U.S.C. § 2255 ²	1:07CV3782

The Court has reviewed the Government's Motion for Leave of Court to Dismiss (Doc. 911 in Case No. 1:05CR0537), which provides in part that

the government has concluded that Bray's illegal conduct was so pervasive and his credibility so tainted by his guilty plea, that . . . the above-captioned defendant[] should be entitled either to a new trial or to withdraw [his] guilty plea[]. Therefore, the government has no objection to this Honorable Court

¹Defendant Albert Lee, Jr. had an appeal pending in the Court of Appeals for the Sixth Circuit (Case No. 07-3108). On February 4, 2008, the Sixth Circuit granted the Joint Motion to Dismiss the appeal pursuant to Fed. R. App. P. 42.

²Doc. 882 in Case No. 1:05CR0537.

granting the motion[] previously set forth to the extent that said pleading [has] attacked the credibility of Jerrell Bray.

Id. at 5. The Court agrees. Therefore, the conviction and sentence of defendant Albert Lee, Jr. in Case No. 1:05CR0537 is VACATED. Furthermore, the guilty plea of this defendant in Case No. 1:05CR0537 is WITHDRAWN.

Case No. 1:07CV3782 is CLOSED.

Next, the government states in Doc. 911 that it

has additionally reviewed the evidence in light of proceeding to trial as to . . . the defendant[]. In this regard, the government has concluded, as previously noted, that Bray, as an essential witness, is not reliable or credible. The government also noted in reviewing the evidence that many of the . . . defendants [in Case No.1:05CR0537] made voluntary statements to law enforcement admitting their roles in the distribution of crack cocaine in the greater Mansfield area. Despite these admissions, based on the government's abiding belief in our system of justice and fundamental fairness, Bray's illegal conduct in the Mansfield investigation (violating [people's] civil rights and committing perjury before this Court) is so pervasive that it leaves the government with no alternative other than to conclude that these matters must be dismissed.

Id. at 5-6.

For good cause shown and in the interest of justice, the government's Motion for Leave of Court to Dismiss (Doc. 911) is GRANTED as to defendant Albert Lee, Jr. All charges pending in Case No. 1:05CR0537 against this defendant only are DISMISSED.

The Clerk of Court shall docket the within Order in Case Nos. 1:05CR0537 and 1:07CV3782.

IT IS SO ORDERED.

February 6, 2008

Date

/s/ John R. Adams

John R. Adams

U.S. District Judge